

DATE: September 19, 2005

TO: COUNTY DSS, DCP, DHS and DHHS AGENCIES

FROM: Audrey Roecker, Area Administrator
Office of Strategic Finance/Western Region

RE: **2006 POS CONTRACT, AUDIT PROCEDURES, AND WAIVERS**

Chapter B7 of the Wisconsin Department of Health and Family Services Financial Management Manual (FMM) contains policy material along with the Purchase of Services (POS) Model Contract Language and Instructions. The synopsis of contract and audit requirements outlined in this memo serve as a quick reference, but for complete information refer to the FMM. The base model contract is not required, but is provided as convenient and appropriate contract language. In all cases, the agency is to use either the model contract format or an adaptation of the model contract. Adaptations require Office of Strategic Finance (OSF) Regional Office review. It is also necessary to use the specific Community Based Residential Facility (CBRF) Model Contract or an adaptation in which all elements of the model CBRF contract are included.

Chapter B7 of the FMM has been revised. It can be accessed online at
<http://www.dhfs.state.wi.us/grants/contract.HTM>

For Family Care Care Management Organizations (CMOs) the requirements for provider contracts are contained in the Health and Community Supports Contract between the Department of Health and Family Services and the CMO. These requirements incorporate federal Medicaid managed care requirements. CMOs should refer to the Health and Community Supports Contract for provider contract requirements, not the FMM. CMOs cannot apply to the OSF Regional Office for a waiver of contract requirements with providers.

CONTRACT REQUIREMENTS/CONTRACT WAIVERS

When Contracts Are Not Required

Contracts are not required for the following. Therefore, it is not necessary to have a contract waiver for these services.

- ◆ Care provided by foster homes and treatment foster homes licensed under s.48.62. (Note: Contracts **ARE** required for group homes licensed under s.48.625.)
- ◆ When a provider under contract with a county agency obtains services from another vendor (ancillary services).

- ◆ When day care is provided via a voucher directly to a client.
- ◆ Placement in a CBRF when the CBRF is owned or operated by the county making the placement.
- ◆ When paying for services or items through the Family Support Program between a family and the county agency.
- ◆ When a payment is made directly to a client from a county agency. (Note: Individual client vouchers cannot be used in lieu of formal contracts for CBRF services.)

Contracts are required in all other circumstances. There are some instances listed below in which the OSF Regional Office waives the requirement for a contract.

Contracts Which Are Required But Are Automatically Waived By The OSF Regional Office

The Department considers the contracting process a good business practice that, if properly executed, protects both the purchaser and provider. It is the intent of the Department to encourage the development of contracts. However, the Department also recognizes that in some instances the imposition of rigid contracting procedures is a deterrent to the delivery of services.

Through this memo, the OSF Regional Office is granting an automatic blanket waiver for required contracts in the following three circumstances:

- ◆ For purchases of \$10,000 or less in a calendar year.
- ◆ When a child is placed in a group home when another DSS or DHS is the sponsoring agency. The sponsoring agency must have a contract with a group home (less than \$10,000 in a calendar year).
- ◆ For emergency or one-time unanticipated client-specific services (less than \$10,000 in a calendar year).

It is the county agency's responsibility to assure that the specific situations in which you do not seek contracts fit into either the "not required" or "waived" criteria outlined above and on page 1 of this memo. The agency is responsible for contracting for all other purchased services.

AUDIT REQUIREMENTS/AUDIT WAIVERS

Wisconsin Statute 46.036 requires an audit from providers that receive more than \$25,000 from the Department of Health and Family Services or from a county. The statute allows the Department to waive audits on a case-by-case basis. In addition, Section 66.0143 of the Wisconsin Statutes authorizes waiver of state mandates.

Section 66.0143 requires the request for a waiver of the \$25,000 threshold be filed with the Wisconsin Department of Revenue. The requester is required to specify the reason for seeking the waiver. The Department of Revenue is required by statute to forward the request to the department administering the funding for approval of the waiver request. The waiver is effective for four years. Additional information on obtaining waivers under Section 66.0143 is on the Department of Revenue's website at <http://www.dor.state.wi.us/lfa/mandate.html>.

The audit waiver criteria does not apply to group homes and residential care facilities that provide out of home residential care for children. Audit reports from these facilities are required to support the

Department's claims to the federal government for the funding that pays for the care of children at these facilities. In addition, the Department does not waive audits that are required under the Single Audit Act Amendments of 1996. This law is implemented through OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," and requires non-profits and local governments that expend more than \$500,000 in federal funds to have audits in accordance with Circular A-133.

Wisconsin Statute 46.036 applies to county operations including Family Care CMOs operated by a county agency. CMOs must follow the audit waiver process described in this memorandum if they want to request waivers of provider audits.

When Audits Are Not Required (therefore no audit waiver is necessary)

- ◆ For contracts under \$25,000, or;
- ◆ For contracts under a higher threshold amount approved through a Section 66.0143 waiver.

Audits Which Are Required But May Be Waived By The Regional Office

All references in this section are to the *Provider Agency Audit Guide (PAAG)* that includes guidance on matching audit requirements to the assessed level of risk that an agency will have problems administering department programs. The PAAG is online at www.dhfs.state.wi.us/grants.

The provider must furnish the purchaser with an annual audit for purchases exceeding \$25,000, or the higher threshold amount if a Section 66.0143 waiver is received, unless the purchaser obtains a waiver for the audit from the OSF Regional Office. Waiver of the audit is appropriate only if the agency does not need to have an audit according to federal audit requirements. If the provider does not need to have a federal audit, the Regional Office may decide to approve waiving the audit when:

- ◆ The granting agency assessed the level of risk at low as documented by the "Risk Identification and Assessment Worksheet." (Section 3.1.1).
- ◆ The granting agency increased other monitoring efforts to reduce risk to a low level (Section 3.1.1).
- ◆ The contract is funded solely with federal funds (Section 3.1.3).
- ◆ The department funding is a very small part of the provider's overall business (Section 3.1.4).
- ◆ An audit would be a hardship on the provider (Section 3.1.4).
- ◆ Audited information is not needed (Section 3.1.5).
- ◆ The agency does not operate a group home or child caring institution facility (Section 3.1.5 and Section 7.1.5).

Requests for a waiver are to be submitted to the OSF Regional Office on the attached CY **2005** Purchase of Service Waiver of Audit Request form, during contract negotiation before the contract is signed. Purchasers must also attach the following items to the request for a waiver:

1. A “Risk Identification and Assessment Worksheet” showing the purchaser’s assessment of risk for the provider (Section 2).
2. A description of the alternate form of financial and program compliance monitoring the purchaser will implement in lieu of an audit (see Section 2.3.3 for examples of monitoring efforts).

Requests for audit waivers after the contract is signed will be considered in exceptional situations only.

Audit waiver requests for programs funded through the Area Agency on Aging must be sent to the appropriate Area Agency on Aging office. Please contact the Area Agency on Aging office for the procedures to use in requesting an audit waiver.

Audit waiver requests for providers that receive any other sources of DHFS funding must be sent to the Area Administrator in the Regional Office using the attached waiver form and the “Risk Identification and Assessment Worksheet.”

Audits Which Are Required But May Be Waived By The County

For contracts with small residential care providers such as family group homes and adult family homes, the county, rather than the state has the authority to grant a waiver to the audit requirement. For contracts under \$25,000, an audit is not required so no waiver is necessary. For contracts over \$25,000, the county can provide a waiver by using the same audit waiver criteria the Regional Offices uses, including the Risk Identification and Assessment Worksheet.

1. If the provider agency is at low risk as determined by the Risk Identification and Assessment Worksheet and the cost of an audit exceeds five percent of the total contract (as verified by written bid), an alternate year audit schedule that covers both years may be approved.
2. If it is determined that an audit would not be cost effective, or would otherwise place an undue burden upon the vendor, the audit requirement may be waived. You must document the specific circumstances that support the granting of a waiver and indicate an alternate form of financial monitoring and program compliance, which will be substituted for an audit.

TO: Area Administrator
Office of Strategic Finance

FROM: _____, Director
_____, County DHS, DSS, DCP

RE: **CY 2006 Purchase of Service Waiver of Audit Requirement**

WAIVER REQUEST

1. Date of Request: _____
2. Provider Name: _____
3. Service(s) Being Purchased: _____
4. Total Contract Amount: _____
5. Reason Audit Waiver is Requested:
 - a) _____ Agency is identified at low risk
 - i) Risk Identification and Assessment Worksheet attached per Provider Agency Audit Guide _____ **(REQUIRED FOR ALL WAIVER REQUESTS)**
 - b) _____ Audit exceeds 5% of the total contract.
 - i) Audit Cost: _____
 - ii) Source of Estimate: _____
 - c) _____ Corporate Certified Audit Report and statement of program revenues and expenses.
 - i) Name of Corporation: _____
 - d) _____ Audit not cost effective or undue burden. Explain: _____

6. Alternate form of financial and program compliance monitoring to be implemented:

REGIONAL OFFICE RESPONSE

1. Approved _____ Denied _____
2. Comments: _____
3. Signature: _____ Date: _____

Illustration 2.1 Risk Identification and Assessment Worksheet

| Risk Factors | | (Place a checkmark next to the description that best suits the risk factor) | |
|---------------------------------|--|--|--|
| | | Lower Risk | Higher Risk |
| 2.1 | Program Characteristics: | | |
| 2.1.1 | Lifestage of the program | More than two years | Less than two years |
| 2.1.2 | Complexity of the program | Low level of complexity | High level of complexity |
| 2.1.3 | "Sensitivity" of the program | Low level of sensitivity | High level of sensitivity |
| 2.1.4 | Who decides eligibility for the program | Granting agency | Provider |
| 2.1.5 | Who decides amount or type of service from the program | Granting agency | Provider |
| 2.1.6 | Payment method | Unit-times-unit-price and granting agency has independent means of knowing reasonability of price and number of units. | All other payment methods |
| 2.1.7 | Competition | Competitive basis | Not competitive |
| | Other characteristics: | | |
| | | | |
| 2.2 | Provider Characteristics: | | |
| 2.2.1 | Provider's total funding from the department | Less than \$75,000 | Greater than \$75,000 |
| 2.2.2 | Provider's length of time in business | More than two years | Less than two years |
| 2.2.3 | Provider's experience and past performance | Extensive experience and history of good performance | Little to no experience or history of problems with performance |
| 2.2.4 | Provider's financial health and practices | No financial difficulties or problems with financial practices | Financial difficulties or problems with financial practices |
| 2.2.5 | Provider's compliance and internal controls | No problems | Some problems |
| 2.2.6 | Provider's fiduciary responsibilities | No fiduciary responsibility | Provider has fiduciary responsibilities |
| 2.2.7 | Provider's subcontracting | Little to no subcontracting or effective contract monitoring function | Extensive subcontracting or ineffective contract monitoring function |
| | Other characteristics: | | |
| | | | |
| 2.3 | Granting Agency Characteristics: | | |
| 2.3.1 | Granting agency's experience with the provider agency | Extensive experience | Little to no experience |
| 2.3.2 | Granting agency's experience with the program | Extensive experience | Little to no experience |
| 2.3.3 | Granting agency's monitoring methods | All significant risks covered by alternate monitoring | Some significant risks not covered by alternate monitoring |
| | Other characteristics: | | |
| | | | |
| Overall risk assessment: | | Low risk | |
| | | Moderate risk | |
| | | High risk | |